

HOUSE BILL 834

O4

(2lr0095)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Chair, Judiciary Committee (By Request – Departmental – Human Resources)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – ~~Child Welfare~~ – Alternative Response**

3 FOR the purpose of authorizing the Secretary of Human Resources to establish an
4 alternative response program for certain reports of child abuse or neglect;
5 requiring the Department of Human Resources to establish ~~an~~ a certain
6 advisory council ~~to participate in the development of the alternative response~~
7 ~~implementation plan~~; specifying the composition and duties of the advisory
8 council; providing for the chair of the advisory council; prohibiting certain
9 reports of child abuse or neglect from being assigned for an alternative
10 response; authorizing certain reports assigned for an alternative response to be
11 reassigned for an immediate investigation based on certain factors; authorizing
12 certain reports assigned for an investigation to be reassigned for an alternative
13 response based on certain factors; requiring a local department to take certain
14 actions following a report assigned for an alternative response; providing for the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 confidentiality ~~and~~, maintenance, and expungement of certain records;
 2 requiring the ~~Social Services Administration of the~~ Department to develop a
 3 certain data collection process; requiring the Department to contract with an
 4 independent agency to conduct an evaluation of the alternative response
 5 program; providing that a certain independent agency may not receive certain
 6 funding; prohibiting the Department from beginning actual implementation of
 7 alternative response before a certain date; requiring the Department to submit
 8 a certain preliminary assessment and recommendations to the Governor and
 9 the General Assembly on or before a certain date; requiring the Department to
 10 submit a certain final report to the Governor and the General Assembly on or
 11 before a certain date; defining a certain term; and generally relating to child
 12 abuse and neglect and alternative response plans with respect to reports of child
 13 ~~abuse and neglect.~~

14 BY repealing and reenacting, with amendments,
 15 Article – Family Law
 16 Section 5–706
 17 Annotated Code of Maryland
 18 (2006 Replacement Volume and 2011 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Family Law**

22 5–706.

23 (a) (1) IN THIS SECTION, “ALTERNATIVE RESPONSE” MEANS A
 24 COMPONENT OF THE CHILD PROTECTIVE SERVICES PROGRAM THAT PROVIDES
 25 FOR A COMPREHENSIVE ASSESSMENT OF:

26 (I) RISK OF HARM TO THE CHILD;

27 (II) RISK OF SUBSEQUENT CHILD ABUSE OR NEGLECT;

28 (III) FAMILY STRENGTHS AND NEEDS; AND

29 (IV) THE PROVISION OF OR REFERRAL FOR NECESSARY
 30 SERVICES.

31 (2) “ALTERNATIVE RESPONSE” DOES NOT INCLUDE:

32 (I) AN INVESTIGATION; OR

33 (II) A FORMAL DETERMINATION AS TO WHETHER CHILD
 34 ABUSE OR NEGLECT HAS OCCURRED.

1 **(B)** Promptly after receiving a report of suspected abuse or neglect of a child
2 who lives in this State that is alleged to have occurred in this State, the local
3 department or the appropriate law enforcement agency, or both, if jointly agreed on,
4 shall make a thorough investigation of a report of suspected abuse or neglect to protect
5 the health, safety, and welfare of the child or children.

6 **[(b)] (C)** Within 24 hours after receiving a report of suspected physical or
7 sexual abuse of a child who lives in this State that is alleged to have occurred in this
8 State, and within 5 days after receiving a report of suspected neglect or suspected
9 mental injury of a child who lives in this State that is alleged to have occurred in this
10 State, the local department or the appropriate law enforcement agency shall:

11 (1) see the child;

12 (2) attempt to have an on-site interview with the child's caretaker;

13 (3) decide on the safety of the child, wherever the child is, and of other
14 children in the household; and

15 (4) decide on the safety of other children in the care or custody of the
16 alleged abuser.

17 **[(c)] (D)** The investigation under subsection **[(b)] (C)** of this section shall
18 include:

19 (1) a determination of the nature, extent, and cause of the abuse or
20 neglect, if any;

21 (2) if mental injury is suspected, an assessment by two of the
22 following:

23 (i) a licensed physician, as defined in § 14-101 of the Health
24 Occupations Article;

25 (ii) a licensed psychologist, as defined in § 18-101 of the Health
26 Occupations Article; or

27 (iii) a licensed social worker, as defined in § 19-101 of the Health
28 Occupations Article; and

29 (3) if the suspected abuse or neglect is verified:

30 (i) a determination of the identity of the person or persons
31 responsible for the abuse or neglect;

1 (ii) a determination of the name, age, and condition of any other
2 child in the household;

3 (iii) an evaluation of the parents and the home environment;

4 (iv) a determination of any other pertinent facts or matters; and

5 (v) a determination of any needed services.

6 **[(d)] (E)** On request by the local department, the local State's Attorney shall
7 assist in an investigation under subsections **[(b) and (c)] (C) AND (D)** of this section.

8 **[(e)] (F)** The local department, the appropriate law enforcement agencies,
9 the State's Attorney within each county and Baltimore City, the local department's
10 office responsible for child care regulation, and the local health officer shall enter into
11 a written agreement that specifies standard operating procedures for the investigation
12 under subsections **[(b) and (c)] (C) AND (D)** of this section and prosecution of reported
13 cases of suspected abuse or neglect.

14 **[(f)] (G)** (1) The agencies responsible for investigating reported cases of
15 suspected sexual abuse, including the local department, the appropriate law
16 enforcement agencies, and the local State's Attorney, shall implement a joint
17 investigation procedure for conducting joint investigations of sexual abuse under
18 subsections **[(b) and (c)] (C) AND (D)** of this section.

19 (2) The joint investigation procedure shall:

20 (i) include appropriate techniques for expediting validation of
21 sexual abuse complaints;

22 (ii) include investigation techniques designed to:

23 1. decrease the potential for physical harm to the child;

24 and

25 2. decrease any trauma experienced by the child in the
26 investigation and prosecution of the case; and

27 (iii) establish an ongoing training program for personnel
28 involved in the investigation or prosecution of sexual abuse cases.

29 **[(g)] (H)** (1) To the extent possible, an investigation under subsections
30 **[(b) and (c)] (C) AND (D)** of this section shall be completed within 10 days after receipt
31 of the first notice of the suspected abuse or neglect by the local department or law
32 enforcement agencies.

1 (2) An investigation under subsections [(b) and (c)] **(C) AND (D)** of this
2 section [which] **THAT** is not completed within 30 days shall be completed within 60
3 days of receipt of the first notice of the suspected abuse or neglect.

4 **[(h)] (I)** Within 10 days after the local department or law enforcement
5 agency receives the first notice of suspected abuse of a child who lives in this State
6 that is alleged to have occurred in this State, the local department or law enforcement
7 agency shall report to the local State's Attorney the preliminary findings of the
8 investigation.

9 **[(i)] (J)** Within 5 business days after completion of the investigation of
10 suspected abuse of a child who lives in this State that is alleged to have occurred in
11 this State, the local department and the appropriate law enforcement agency, if that
12 agency participated in the investigation, shall make a complete written report of its
13 findings to the local State's Attorney.

14 **[(j)] (K)** Promptly after receiving a report of suspected abuse or neglect of a
15 child who lives in this State that is alleged to have occurred outside of this State, the
16 local department shall:

17 (1) forward the report to the appropriate agency outside of this State
18 that is authorized to receive and investigate reports of suspected abuse or neglect;

19 (2) cooperate to the extent requested with the out-of-state agency
20 investigating the report; and

21 (3) if determined appropriate by the local department:

22 (i) interview the child to assess whether the child is safe; and

23 (ii) provide services to the child and the child's family.

24 **(L) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE**
25 **SECRETARY MAY IMPLEMENT AN ALTERNATIVE RESPONSE PROGRAM FOR**
26 **SELECTED REPORTS OF ~~CHILD~~ ABUSE OR NEGLECT.**

27 **(M) (1) THE DEPARTMENT SHALL CONVENE ~~AN~~ A**
28 **MULTIDISCIPLINARY ALTERNATIVE RESPONSE ADVISORY COUNCIL ~~CONSISTING~~**
29 **~~OF STAKEHOLDERS AND REPRESENTATIVES FROM LOCAL DEPARTMENTS OF~~**
30 **~~SOCIAL SERVICES TO DEVELOP THE ALTERNATIVE RESPONSE IMPLEMENTATION~~**
31 **PLAN.**

32 **(2) THE ADVISORY COUNCIL SHALL CONSIST OF THE FOLLOWING**
33 **MEMBERS:**

1 (I) THE SECRETARY OF HUMAN RESOURCES, OR THE
2 SECRETARY'S DESIGNEE;

3 (II) THE SECRETARY OF HEALTH AND MENTAL HYGIENE,
4 OR THE SECRETARY'S DESIGNEE;

5 (III) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE
6 SUPERINTENDENT'S DESIGNEE;

7 (IV) A REPRESENTATIVE FROM THE MARYLAND DISABILITY
8 LAW CENTER;

9 (V) A REPRESENTATIVE FROM A CHILD ADVOCACY
10 ORGANIZATION;

11 (VI) A REPRESENTATIVE FROM A COMMUNITY PARTNER OR A
12 LOCAL SERVICE PROVIDER;

13 (VII) A PEDIATRICIAN WITH EXPERIENCE IN DIAGNOSING
14 AND TREATING INJURIES RELATED TO ABUSE AND NEGLECT;

15 (VIII) AN ATTORNEY WITH EXPERIENCE REPRESENTING
16 CHILDREN OR ADULTS IN ABUSE AND NEGLECT CASES;

17 (IX) A REPRESENTATIVE FROM THE OFFICE OF THE PUBLIC
18 DEFENDER;

19 (X) A PARENT OR GUARDIAN WHO HAS PERSONAL
20 EXPERIENCE WITH THE CHILD PROTECTIVE SERVICES SYSTEM;

21 (XI) A CHILD WHO HAS PERSONAL EXPERIENCE WITH THE
22 CHILD PROTECTIVE SERVICES SYSTEM;

23 (XII) TWO REPRESENTATIVES FROM LOCAL DEPARTMENTS
24 OF SOCIAL SERVICES; AND

25 (XIII) TWO REPRESENTATIVES FROM LOCAL CITIZENS REVIEW
26 PANELS.

27 (3) THE SECRETARY OF HUMAN RESOURCES OR THE
28 SECRETARY'S DESIGNEE SHALL BE THE CHAIR OF THE ADVISORY COUNCIL.

29 (4) THE ADVISORY COUNCIL SHALL ADVISE THE DEPARTMENT
30 ON:

1 **(I) THE DEVELOPMENT OF THE ALTERNATIVE RESPONSE**
 2 **IMPLEMENTATION PLAN, WHICH MAY INCLUDE A PILOT PROGRAM;**

3 **(II) OVERSIGHT AND MONITORING OF THE ALTERNATIVE**
 4 **RESPONSE IMPLEMENTATION PLAN;**

5 **(III) CONSULTING WITH LOCAL CITIZENS REVIEW PANELS,**
 6 **LOCAL SERVICES AFFILIATES, AND OTHER LOCAL PARTNERS FOR FEEDBACK**
 7 **AND RECOMMENDATIONS ON THE ALTERNATIVE RESPONSE IMPLEMENTATION**
 8 **PLAN;**

9 **(IV) DEFINING THE SCOPE OF THE INDEPENDENT**
 10 **EVALUATION OF THE IMPLEMENTATION OF THE ALTERNATIVE RESPONSE**
 11 **PROGRAM; AND**

12 **(V) DEFINING THE SCOPE OF THE ONGOING EVALUATION OF**
 13 **THE ALTERNATIVE RESPONSE PROGRAM.**

14 **(N) ~~A ONLY A LOW RISK REPORT OF CHILD ABUSE OR NEGLECT IN~~**
 15 **~~WHICH THERE IS A LOW RISK OF HARM TO THE CHILD~~ MAY BE CONSIDERED FOR**
 16 **AN ALTERNATIVE RESPONSE.**

17 **(O) A REPORT THAT IS NOT ASSIGNED FOR AN ALTERNATIVE RESPONSE**
 18 **SHALL BE ASSIGNED FOR INVESTIGATION IN ACCORDANCE WITH THIS SECTION.**

19 **(P) THE FOLLOWING REPORTS OF SUSPECTED ~~CHILD~~ ABUSE OR**
 20 **NEGLECT MAY NOT BE ASSIGNED FOR AN ALTERNATIVE RESPONSE:**

21 **(1) ~~CHILD~~ SEXUAL ABUSE; AND**

22 **(2) ~~CHILD~~ ABUSE OR NEGLECT:**

23 **(I) OCCURRING IN AN OUT-OF-HOME PLACEMENT;**

24 **~~(II)~~ (II) RESULTING IN DEATH OR SERIOUS PHYSICAL OR**
 25 **MENTAL INJURY; ~~OR~~**

26 **~~(III)~~ (III) ~~WHEN~~ IF, IN THE PREVIOUS 3 YEARS, THE**
 27 **INDIVIDUAL SUSPECTED OF ~~CHILD~~ ABUSE OR NEGLECT HAS BEEN IDENTIFIED**
 28 **AS RESPONSIBLE FOR ~~CHILD~~ ABUSE OR NEGLECT AS DOCUMENTED IN THE**
 29 **RECORDS OF THE LOCAL DEPARTMENT; OR**

1 **(IV) IF THE INDIVIDUAL SUSPECTED OF ABUSE OR NEGLECT**
2 **HAS HAD ONE REPORT ASSIGNED FOR AN ALTERNATIVE RESPONSE WITHIN THE**
3 **PAST 12 MONTHS OR TWO REPORTS ASSIGNED FOR AN ALTERNATIVE RESPONSE**
4 **WITHIN THE PAST 24 MONTHS.**

5 **(Q) A REPORT ASSIGNED FOR AN ALTERNATIVE RESPONSE MAY BE**
6 **REASSIGNED AT ANY TIME FOR AN IMMEDIATE INVESTIGATION BASED ON ANY**
7 **OF THE FOLLOWING FACTORS AND CIRCUMSTANCES:**

8 **(1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS;**

9 **(2) A DETERMINATION THAT THE CASE SATISFIES A CRITERION IN**
10 **SUBSECTION (P) OF THIS SECTION; OR**

11 **(3) A FAMILY'S INABILITY OR REFUSAL TO COOPERATE, WHICH**
12 **MAY INCLUDE:**

13 **~~(I) REFUSAL TO PROVIDE OR AUTHORIZE THE RELEASE OF~~**
14 **~~INFORMATION NECESSARY TO COMPLETE THE ALTERNATIVE RESPONSE;~~**

15 **~~(II) REFUSAL TO ACCEPT SERVICES THAT WOULD DECREASE~~**
16 **~~THE RISK OF CHILD ABUSE OR NEGLECT OR HAVE AN IMPACT ON CHILD SAFETY;~~**

17 **~~(III) AN INABILITY TO ACTIVELY PARTICIPATE IN THE~~**
18 **~~ALTERNATIVE RESPONSE; OR~~**

19 **~~(IV) A REQUEST BY A FAMILY MEMBER FOR AN~~**
20 **~~INVESTIGATION INSTEAD OF AN ALTERNATIVE RESPONSE~~ PARTICIPATE IN THE**
21 **ALTERNATIVE RESPONSE ASSESSMENT.**

22 **(R) A REPORT ASSIGNED FOR AN INVESTIGATION MAY BE REASSIGNED**
23 **FOR AN ALTERNATIVE RESPONSE AT ANY TIME BASED ON:**

24 **(1) A REASSESSMENT OF THE REPORT OR RELEVANT FACTS THAT**
25 **DEMONSTRATE THAT THE CASE MEETS THE CRITERIA FOR AN ALTERNATIVE**
26 **RESPONSE; AND**

27 **(2) A DETERMINATION THAT ACCEPTED SERVICES WOULD**
28 **ADDRESS ALL ISSUES OF RISK OF ~~CHILD~~ ABUSE OR NEGLECT AND CHILD**
29 **SAFETY; AND**

30 **(3) APPROVAL BY A CASEWORKER SUPERVISOR.**

1 (S) ~~CASE~~ REPORT IS REFERRED FOR AN ALTERNATIVE
2 RESPONSE, THE LOCAL DEPARTMENT SHALL:

3 (1) ~~MEET WITH~~ SEE THE CHILD AND THE CHILD'S PARENT OR
4 PRIMARY CARETAKER WITHIN 24 HOURS OF RECEIVING A REPORT OF PHYSICAL
5 ABUSE;

6 (2) ~~MEET WITH~~ SEE THE CHILD AND THE CHILD'S PARENT OR
7 PRIMARY CARETAKER WITHIN 5 DAYS OF RECEIVING A REPORT OF NEGLECT;

8 (3) ATTEMPT TO HAVE AN ON-SITE INTERVIEW WITH THE CHILD'S
9 PARENT OR PRIMARY CARETAKER;

10 (4) EVALUATE THE CHILD'S HOME ENVIRONMENT;

11 (5) DECIDE ON THE SAFETY OF THE CHILD, WHEREVER THE
12 CHILD IS, AND OF OTHER CHILDREN IN THE HOUSEHOLD;

13 (6) DECIDE ON THE SAFETY OF OTHER CHILDREN IN THE CARE OR
14 CUSTODY OF THE INDIVIDUAL SUSPECTED OF ABUSE OR NEGLECT;

15 ~~(3)~~ (7) ADVISE THE APPROPRIATE LAW ENFORCEMENT AGENCY
16 THAT THE REPORT HAS BEEN ASSIGNED FOR AN ALTERNATIVE RESPONSE, IF
17 THE LAW ENFORCEMENT AGENCY MADE THE REPORT OF ABUSE OR NEGLECT;

18 ~~(4)~~ (8) INFORM THE INDIVIDUAL SUSPECTED OF CHILD ABUSE
19 OR NEGLECT OF THE ALLEGATIONS MADE AGAINST THE INDIVIDUAL IN A
20 MANNER CONSISTENT WITH LAWS PROTECTING THE RIGHTS OF THE PERSON
21 WHO MADE THE REPORT;

22 ~~(5)~~ (9) COMPLETE AN ALTERNATIVE RESPONSE ASSESSMENT
23 WITHIN 60 DAYS AFTER THE RECEIPT OF THE REPORT; AND

24 ~~(6)~~ (10) WITHIN 10 DAYS AFTER COMPLETING THE
25 ALTERNATIVE RESPONSE ASSESSMENT, PROVIDE A WRITTEN REPORT TO THE
26 FAMILY MEMBERS WHO ARE PARTICIPATING IN THE ALTERNATIVE RESPONSE
27 PLAN ASSESSMENT AS TO WHETHER AND WHAT SERVICES ARE NECESSARY TO
28 ADDRESS:

29 (I) THE SAFETY OF THE CHILD ~~AND OTHER FAMILY~~
30 ~~MEMBERS~~ OR OTHER CHILDREN IN THE HOUSEHOLD; AND

31 (II) THE RISK OF SUBSEQUENT ~~CHILD~~ ABUSE OR NEGLECT;
32 AND

1 **(11) CONSISTENT WITH THE ASSESSMENT AND ANY SAFETY OR**
2 **SERVICES PLANS:**

3 **(I) RENDER ANY APPROPRIATE SERVICES IN THE BEST**
4 **INTERESTS OF THE CHILD;**

5 **(II) REFER THE FAMILY OR CHILD FOR ADDITIONAL**
6 **SERVICES; OR**

7 **(III) AS NECESSARY FOR THE SAFETY OF THE CHILD OR**
8 **OTHER CHILDREN IN THE HOUSEHOLD, ESTABLISH A PLAN TO MONITOR THE**
9 **SAFETY PLAN AND THE PROVISION OR COMPLETION OF APPROPRIATE**
10 **SERVICES.**

11 **(T) THE LOCAL DEPARTMENT:**

12 **(1) SHALL:**

13 **(I) MAINTAIN COMPLETE RECORDS RELATED TO AN**
14 **ALTERNATIVE RESPONSE AND SERVICES FOR 3 YEARS AFTER THE REPORT WAS**
15 **RECEIVED IF THERE IS NO SUBSEQUENT CHILD WELFARE INVOLVEMENT; AND**

16 **(II) EXPUNGE COMPLETE RECORDS RELATED TO AN**
17 **ALTERNATIVE RESPONSE AND SERVICES IF THERE IS NO SUBSEQUENT CHILD**
18 **WELFARE INVOLVEMENT AFTER 3 YEARS;**

19 **(2) MAY NOT USE OR DISCLOSE RECORDS RELATED TO AN**
20 **ALTERNATIVE RESPONSE FOR PURPOSES OF RESPONDING TO A REQUEST FOR**
21 **BACKGROUND INFORMATION FOR EMPLOYMENT OR VOLUNTARY SERVICES; AND**

22 **(3) SHALL PROTECT FROM DISCLOSURE RECORDS RELATED TO**
23 **AN ALTERNATIVE RESPONSE IN ACCORDANCE WITH § 1-202 OF THE HUMAN**
24 **SERVICES ARTICLE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That the ~~Social Services~~
26 ~~Administration in the Maryland~~ Department of Human ~~Services~~ Resources shall
27 develop a data collection process to assess the impact of alternative response in the
28 areas of child safety, timeliness of response, timeliness of service, coordination and
29 provision of local human services, cost-effectiveness, record keeping, and any other
30 significant related issues.

31 SECTION 3. AND BE IT FURTHER ENACTED, That ~~the~~:

1 (a) The Department of Human Resources shall contract with an independent
 2 agency to conduct an evaluation of the alternative response program.

3 (b) The independent agency may not receive any funding from any State
 4 agency other than the compensation received under the contract entered into under
 5 subsection (a) of this section.

6 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
 7 Human Resources may not begin actual implementation of alternative response in
 8 local departments of social services before July 1, 2013.

9 ~~SECTION 5. AND BE IT FURTHER ENACTED, That on or before October 1,~~
 10 ~~2014, the Department of Human Resources shall submit to the General Assembly its~~
 11 ~~preliminary assessment of, and recommendations for, the alternative response~~
 12 ~~program established in this Act to the Governor and, in accordance with § 2-1246 of~~
 13 ~~the State Government Article, the General Assembly.~~

14 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of~~
 15 ~~Human Resources may begin actual implementation of alternative response in local~~
 16 ~~departments of social services no earlier than July 1, 2013.~~

17 SECTION 6. AND BE IT FURTHER ENACTED, That on or before October 1,
 18 2015, the Department of Human Resources shall submit a final report on the
 19 alternative response program to the Governor and, in accordance with § 2-1246 of the
 20 State Government Article, the General Assembly.

21 ~~SECTION 5. 7. AND BE IT FURTHER ENACTED, That this Act shall take~~
 22 ~~effect October~~ July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.